

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

OUTDOOR PRODUCT INNOVATIONS, INC.,	)	CASE NO. 1:18-CV-2457
	)	
Plaintiff,	)	JUDGE PATRICIA A. GAUGHAN
	)	<b>MOTION TO CONTINUE TRIAL</b>
v.	)	
	)	
JEST TEXTILES, INC.,	)	
	)	
Defendant.	)	

Plaintiff, Outdoor Product Innovations, Inc., moves this Court, pursuant to Loc. R. 7.1, to continue the trial now scheduled for September 8, 2021. In support of said motion, Plaintiff states as follows:

1. In the present case, Plaintiff is represented by David M. Cuppage, E. Roger Stewart and Nicholas R. Oleski, of the firm McCarthy Lebit Crystal & Liffman Co., L.P.A.

2. On December 15, 2020, this Court set forth the following order:

Minutes of proceedings[non-document] before Judge Patricia A. Gaughan. Telephonic Status Conference was held. Final Pretrial is set 8/16/21 at 9:30 a.m. in Chambers 19B. Trial of 2/02/21 is continued to 9/08/21 at 9:00 a.m. in Courtroom 19B. Judge Patricia A. Gaughan 1/15/2021 Time: 30 mins. (D, Ma)

3. This Court's Civil Trial Order provides, in relevant part:

No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance endorsed in writing by all moving parties and their lead counsel of record. The Court will not consider any motion for a continuance due to a conflict of trial assignment dates unless a copy of the conflicting assignment is attached thereto.

4. It is anticipated that the OPI trial will last in excess of five (5) days, as Plaintiff's Complaint and Defendant's Counterclaim will need to be tried.

5. On or about May 14, 2021, Judge Pamela A. Barker, in the case captioned: *United States of America v. Ashis K. Rakhit, et al.*, Case No. 1:18-cr-00033, scheduled a criminal trial for August 9, 2021, and a final pretrial for July 28, 2021. A true and accurate copy of Judge Barker's Criminal Pretrial Order is attached hereto.

6. In the *Rakhit* Case, defendant Ashis K. Rakhit is represented by Nicholas R. Oleski. In the *Rakhit* Case, the Assistant United States Attorneys have represented that they expect the United States' case in chief will take four (4) weeks. It is anticipated that the defense's case will take one (1) week. Thus, it is anticipated that the *Rakhit* trial is expected to last well into the week of September 6, 2021.

7. By way of background, it should be pointed out that Judge Barker originally scheduled the *Rakhit* trial for July 12, 2021, which is why Mr. Oleski advised this Court that an early September trial in this case would be feasible. But then due to subsequent administrative orders and the difficulties accommodating a trial of this length, Judge Barker was required to continue the *Rakhit* trial to August 9, 2021.

8. Thus, Mr. Oleski has a trial conflict between the criminal trial in the *Rakhit* case and the civil trial in the present case.

9. On June 7, 2021, this Court issued Amended General Order No. 2020-08-8, *In Re: Coronavirus (COVID-19) Phased-In Recovery Plan*, which provides, in relevant part:

In-person civil jury trials will proceed under the following conditions: 1) only one jury trial at a time, civil or criminal, will be conducted in each courthouse, except for the Carl B. Stokes U.S. Court House, where no more than three jury trials may be conducted at a time; and 2) each jury trial will be scheduled for no more than five trial days, unless otherwise agreed to by the judges who serve in that particular courthouse.

10. It is unclear to undersigned counsel whether the judges who serve in the Carl B. Stokes U.S. Court House have agreed to two trials occurring at the same court house in excess of five trial days.

11. To complicate matters, on August 27, 2021, the McCarthy Lebit law firm is moving its offices from the address set forth in the signature block to Cleveland's Central Business District at 1111 Superior Avenue, Cleveland, Ohio. Given the magnitude of this move, it is expected that the move will not be completed well into the week of August 30<sup>th</sup>- September 3<sup>rd</sup>.

12. Significantly, McCarthy Lebit had planned to move its office to a different downtown location and complete that move by mid-summer. However, the expected lease agreement for new space was cancelled by the proposed landlord who could not obtain necessary approvals for the new lease. This forced McCarthy Lebit to pursue an alternative plan which required locating space at a different downtown location and contracting for new leasehold improvements to fit the new location. These changes have resulted in a delay in our planned office move to the end of August 2021. This move will result in temporary loss of access to electronic and physical files, which will be consequential to the trial.

13. Collectively, due to Mr. Oleski's trial conflict, the uncertainty of consent in accordance with Amended General Order No. 2020-08-8, and the difficulties presented by the undersigned's law firm's move, a continuance of trial is therefore being requested to a date mutually agreeable to this Court, Plaintiff, Defendant and all counsel.

14. Pursuant to this Court's Civil Trial Order, Plaintiff is attaching a written endorsement from a duly authorized representative of Plaintiff. (See Ex. A).

Respectfully submitted,

/s/ David M. Cuppage

David M. Cuppage (0047104)

E. Roger Stewart (0069042)

Nicholas R. Oleski (0095808)

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*Attorneys for Plaintiff Outdoor Product  
Innovations, Inc.*

**CERTIFICATE OF SERVICE**

The foregoing was electronically filed this 15th day of July 2021. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ David M. Cuppage

David M. Cuppage (0047104)